In the High Court of Punjab and Haryana at Chandigarh

CWP No.17782 of 2007
Date of decision:December 4, 2007

Jaswant Singh

---Petitioner

Vs.

State of Punjab and others

---Respondents

Coram: **HON'BLE MR. JUSTICE M.M.KUMAR**
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr.Hemant Saini, Advocate,
for the petitioner.

Mr.Amol Rattan Singh, Addl. A.G., Punjab.

***

M.M.KUMAR, J.

The prayer made in this petition under Article 226 of the Constitution is for issuance of direction to the Excise and Taxation Officer Information Collection Centre, Devigarh, Patiala, to release the goods belonging to the petitioner and for quashing notice dated 18.11.2007 (P-7) being colourable exercise of power. Notice of motion was issued and in response thereto learned State counsel has put in appearance and has produced original record before us. It has been represented that the order passed by respondent No.2-Excise and Taxation Officer, ICC, Devigarh, Patiala, imposing penalty on the petitioner has already been passed and the same is appealable order.

From the perusal of the record and the documents produced by learned counsel for the petitioner, it is not possible for us to conclude as to whether the premises are under the actual lease of the petitioner

or not. There appears to be some dispute between the petitioner and the lessor-respondent No. 5. The aforementioned situation has emerged before the respondent-department when the petitioner has sought refund of some amount and the respondent department undertook the exercise to verify the bona fide of the petitioner. Be that as it may. At this stage, it is not possible for us to record any finding on that issue.

In view of the above,we dismiss the petition with liberty to the petitioner to challenge the order of penalty by availing the remedy of appeal. The petitioner shall be at liberty to move appropriate application for release of goods as well as the vehicle before the competent officer. The petition is accordingly dismissed.

(M.M.KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

DECEMBER 4, 2007
paramjit